

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

September 27, 2002

Mid-Maine Telephone Company  
Request for Universal Service Funding  
Docket No. 2002-496

TDS Telephone Companies  
Request for Universal Service Funding  
Docket No. 2002-497

Lincolntonville Telephone Company  
Request for Universal Service Funding  
Docket No. 2002-518

Tidewater Telecom  
Request for Universal Service Funding  
Docket No. 2002-529

NOTICE OF OPPORTUNITY TO  
COMMENT CONCERNING  
PROTECTION OF BILLING  
UNIT INFORMATION AS  
CONFIDENTIAL BUSINESS  
INFORMATION

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The companies named above have requested confidential business information protection for access revenue and billing unit information requested by the Public Utilities Commission staff in the proceedings listed above. The Hearing Examiner has issued Temporary Protective Orders in each of the cases, but has also required the companies to file memoranda stating why such protection should be ordered on a permanent basis.

The companies have requested a continuance of the deadline for memoranda and have requested that other entities that might have an interest in this issue be afforded an opportunity to comment.

The following is the relevant excerpt from the Temporary Protective Orders:

In the near future, [telco] (the Company) is expected to file a request with the Commission for high cost universal service funding pursuant to Chapter 288 of the Commission's Rules. In anticipation of that request, the Commission staff issued a data request that requested current revenues and billing units for certain of the Company's services. In its response, the Company claimed that the interexchange revenue and interexchange billing unit information are confidential or proprietary because they are commercially valuable and could be of value to potential competitors. Specifically, the Company claims that billing units are information about sales volumes and the revenue information could be used (in

combination with access rates, which are publicly available) to derive an estimate of billing units.

Section 1311-A (1)(A) of Title 35-A of the Maine Revised Statutes grants the Commission the authority to issue protective orders to protect the interests of parties in maintaining confidential or proprietary information, trade secrets, or similar matters as provided by the Maine Rules of Civil Procedure, Rule 26(c), but subsection (1)(C) of section 1311-A places the burden of demonstrating the need for protection on the party requesting it. Subsection (1)(C) also allows the Presiding Officer to “partially and temporarily” issue a protective order.

The Presiding Officer cannot conclude at this time that protection is warranted under 35-A M.R.S.A. § 1311-A and M.R.Civ.P. 26(c). On September 27, 2002 [date now superseded], the Company shall file a memorandum that establishes the reasons why the information described above should be confidential and should be subject to protection. The memorandum should address at least the following issues:

1. The need for protection from “competitors,” given that the Company does not provide retail toll service and receives the same amount of access revenue per minute from all IXCs (whether from its “designated carrier,” Verizon, or others).
2. Assuming, *arguendo*, that the Company does face potential competition (e.g., if it were to become its own toll carrier), the likelihood that IXCs would focus efforts on individual independent ILECs that provide retail toll service, as opposed to all of the independent ILEC service areas in the state, the state as a whole, or nationally.
3. The extent to which IXCs are able, on the basis of existing publicly-available information, to make a reasonable assessment of the intrastate retail toll market in the Company’s service area. Such information includes, but may not be limited to, numbers of residential and business lines, the extent of toll-free calling (BSCAs), the amount of intrastate toll calling in other areas of the state, and demographic data, such as population totals and age data of the population, income levels, and the number and size of businesses in the community.
4. The Company’s plans, if any, to become a retail toll service provider and, if it does, whether that fact provides a basis for ordering protection.

The Company may also present argument about whether the limited nature of this proceeding (to establish the amount of USF the Company will receive so as to maintain its present level of revenues after it reduces its intrastate access rates to interstate NECA levels) is a relevant factor in determining whether permanent protection should be granted or denied. Is consideration of the purpose of a proceeding within the scope of the mandate of

35-A M.R.S.A. § 1311-A (1)(B) to balance between the requesting party's need to keep the information confidential and the specific statutory policies enumerated in that paragraph?

This Notice of Opportunity to Comment is being sent the Telephone Association of Maine, Verizon of New England, AT&T of New England, MCI-WorldCom and Sprint and the Public Advocate.

Parties and other persons wishing to file memoranda shall do so on or before **October 18, 2002.**

Dated at Augusta, Maine, this 27th day of September, 2002.

BY ORDER OF THE HEARING EXAMINER

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Peter Ballou  
Hearing Examiner